



BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

Town of Brookline *Massachusetts*

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 070063

Petitioners, James and Lillie Yee, applied to the Building Department for a permit to construct a sunroom on an existing masonry patio at the rear of their home at 510 Clinton Street. The application was denied and an appeal taken to this Board.

On December 6, 2007 the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed January 03, 2008 at 7:00 p.m., 2nd floor, Main Library, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published December 13 and 20, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **YEE, JAMES W and LILLIE L**
Location of Premises: **510 CLINTON RD BRKL**
Date of Hearing: **01/03/2008**
Time of Hearing: **07:00 p.m.**
Place of Hearing: **Main Library, 2nd fl.**

A public hearing will be held for a special permit and/or variance from:

- 1) **5.09.2. j; Design Review, Special Permit Required.**
- 2) **5.20; Floor Area Ratio; Variance Required.**
- 3) **5.22.3. b.1.b; Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units. Special Permit Required.**
- 4) **5.43; Exceptions to Yard and Setback Regulations; Special Permit Required.**
- 5) **5.60; Side Yard Requirements; Variance Required.**
- 6) **8.02.2; Alteration or Extension; Special Permit Required.**

Of the Zoning By-Law to construct a sunroom addition per plans at **510 CLINTON RD BRKL.**

Said Premise located in a **S-10** District.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the **ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.***

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Present at the hearing was Chair, Enid Starr and Board Members Jesse Geller and Anna Christina Wolfe . The owners were represented by their daughter, Elaine Yee.

Ms. Yee described the site and neighborhood as a single-family ranch-style dwelling constructed of brick and located on Clinton Road near its end cul-de-sac. She said that attached to the rear of the dwelling is a brick patio, and in the center of the rear yard is an in-ground pool. The

immediate neighborhood consists of similarly-sized and styled single-family dwellings. She said her parents who live in the residence, are proposing to construct a single-story sunroom addition of 172.5 square feet to the rear of the dwelling on top of an existing brick patio. The sunroom would remain within the existing dimensions of the patio, 10 feet deep by 17.25 feet wide; the existing stairs and landing for the patio would lead to the sunroom's entrance. The addition would have aluminum framing, and its walls would primarily be glass. The three-season sunroom would not be heated, but it would serve as a place to store house plants. Ms. Yee said that she thought her parents needed relief for floor area ratio, setback and a pre-existing, non-conforming structure. She said as a counterbalancing amenity her parents would provide plantings along their property line to the north.

The Chairperson then asked if there were any members of the public who wish to speak in support or opposition to the Petitioner's proposal; no one responded.

Adam Serafin, Planner, presented the findings, relief required and Planning Board report:

Section 5.09.2.j – Design Review

A special permit is required for any exterior addition for which a special permit is requested under Section 5.22. All of the design standards in paragraph (d) have been met and comments on the most relevant follow:

- a. Preservation of Trees and Landscape:* The proposed addition would not require the removal of any landscaping as it would be located on an already existing brick and flagstone patio.
- b. Relation of Buildings to Environment:* The proposed addition should not negatively impact neighboring buildings, nor be seen from the street.

Section 5.20 – Floor Area Ratio

	Allowed		Existing	Proposed	Relief
	By Right	By Special Permit			
F.A.R	0.3 (100%)	0.45 (150%)	0.35 (116%)	0.37 (122%)	Special Permit*
Floor Area (s.f.)	2,887	4,330	3,344	3,517	-

* Under Section 5.22.3.c, the Board of Appeals may allow by special permit a floor area increase of less than 350 square feet up to 150 percent of the permitted gross floor area.

Section 5.60 – Side Yard Requirements

Proposed Garage/Driveway	Required	Proposed	Relief
Side Yard Setback	10 feet	8.1 feet	Variance/S.P.**

** The Board of Appeals may grant a special permit under Section 5.43 to waive setback requirements if counterbalancing amenities are provided.

Section 8.02.2 - Alteration or Extension

A special permit may be granted under Section 8.02.2 to alter or enlarge a non-conforming condition.

Mr. Serafin said that the Planning Board was supportive of the proposed application to construct a three-season sunroom on the rear of the existing single-family dwelling. The sunroom would not require the removal of landscaping because of its proposed location on an existing raised brick patio. Several dwellings in the area have similarly-designed additions, and the proposed addition should not significantly impact neighboring dwellings. Therefore, he said, the Planning Board recommended approval of the proposal and plans, including the plot plan prepared by David Aho and last dated 10/10/2007, and the architectural plan prepared by Betterliving Sunrooms and last dated 8/28/2007, subject to the following conditions:

- 1. Prior to the issuance of a building permit, a final landscaping plan, showing all counterbalancing amenities, shall be submitted for the review and approval of the Assistant Director for Regulatory Planning.**
- 2. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan showing the sunroom dimensions, stamped and signed by a registered architect or land surveyor, 2) final elevations of the proposed addition, indicating building materials, and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

The Chairperson then called upon Frank Hitchcock, Plan Examiner. Mr. Hitchcock spoke on behalf of the Building Department. Mr. Hitchcock stated that all the relief required for this

proposal could be granted by special permit. He said that a special permit under Section 5.09.2.j, Design Review, is required for any exterior addition for which a special permit is requested under Section 5.22. Also, under Section 5.22.3.c, the Board of Appeals may allow a floor area increase of less than 350 square feet up to 150 percent of the permitted gross floor area. He said that the Board may grant a special permit under Section 5.43 to waive setback requirements if counterbalancing amenities are provided. Because the structure is pre-existing, non-conforming, a special permit is required under Section 8.02.2 to alter a non-conforming condition. Mr. Hitchcock said that the Building Department had no problem with the proposal, the relief required or the conditions recommended by the Planning Board.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that is desirable to grant Special Permits under Section 5.09.2.j, Section 5.22.3.c, Section 5.43 and Section 8.02.2 of the Zoning Bylaw. The Board makes the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Therefore, the board voted unanimously to grant all the Special Permit relief with the following conditions:

1. **Prior to the issuance of a building permit, a final landscaping plan, showing all counterbalancing amenities including plantings along the northern property line in the vicinity of the patio area where no plantings currently exist, shall be submitted**

for the review and approval of the Assistant Director for Regulatory Planning.

2. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan showing the sunroom dimensions, stamped and signed by a registered architect or land surveyor, 2) final elevations of the proposed addition, indicating building materials, and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
the Board of Appeals



Enid Starr

Filing Date: JAN 15, 2008

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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